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and Certain Mesothelioma Plaintiffs*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:	)	
	)	Chapter 11
LTL MANAGEMENT LLC,	)	
	)	Case: 23-12825-MBK
Debtor.	)	

**MRHFM'S JOINDER TO THE TCC'S MOTION  
TO DE-DESIGNATE EXHIBIT A OF TERM SHEET**

MRHFM joins the TCC's motion to make Exhibit A of the Term Sheet public (Dkt. 440). Exhibit A isn't confidential, it's *terrible*. And that's why Johnson & Johnson is so ashamed of it. Debtor's Counsel said as much: "We view that public disclosure of [Exhibit A] at this point as potentially damaging to further negotiations at this point in time." *See* TCC Mot., ¶ 2 (Dkt. 440-1). *Right*. If the sick people with real claims—those that have value in the tort system—saw Exhibit A, the "damage" to negotiations would be plaintiffs rejecting it and the public asking questions J&J doesn't have good answers for.

Johnson & Johnson issues daily press releases attacking the lawyers who dare to protect their clients' rights to full state law remedies. See Ex. 1, Appendix of Johnson & Johnson Statements ("J&J Statements"). Exhibit A to the Term Sheet does indeed provide a "clear and complete explanation"—see J&J Statement, Apr. 24th—of what each victim would receive based on disease type, age, exposure history given, and several "reduction" factors.<sup>1</sup> That's the *problem*. Exhibit A reveals that the only people benefitting from this fraud are J&J, its shareholders, bankruptcy professionals, and a handful of collaborating lawyers (the Ad Hoc Committee of Supporting Counsel).

Living in the United States right now are thousands of people already exposed to asbestos from Baby Powder who will develop mesothelioma or ovarian cancer in the future. FCR Randi Ellis thinks she knows better than the Founding Fathers, state and federal trial judges, juries, and the victims themselves about the "best" way for the \$420 billion tortfeasor<sup>2</sup>—which pays Ms. Ellis \$1,000/hour—to compensate the people the tortfeasor lied to and poisoned to death. Future victims (even though unaware of their diagnosis) should have access to the deal Ms. Ellis supported and that J&J purports to bind them to, even if they don't realize it yet. The public must see Exhibit A.

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<sup>1</sup> The Term Sheet, including Exhibit A, was admitted as Exhibit 4 at the preliminary injunction hearing.

<sup>2</sup> Kenvue was spun-off as an independent publicly traded company last week. It is presently valued at \$50 billion. See *J&J's consumer-health spinoff Kenvue jumps 22% in public market debut*, Annika Kim Constantino, CNBC, May 4, 2023, available at: <https://www.cnbc.com/2023/05/04/jj-kenvue-ipo-kvue-starts-trading-on-nyse.html>

LTL's hypocrisy on confidentiality is nothing new. The Debtor says in its Cross-Motion for a Protective Order that it "has turned over thousands of documents and will turn over many more that it otherwise would have kept private." See Dkt. 491-1, ¶ 19. LTL says documents "that do not meet the definition of confidential information thereunder still are private documents that ordinarily would not be disclosed to the public." *Id.* **Exactly.** Johnson & Johnson could have kept all this stuff confidential. But instead, the Company filed two bad faith bankruptcies and put all of it at issue. All non-confidential relevant documents can and will be shared with the public. And the media.

The Debtor rehashes its long-ago debunked theory that documents "marked confidential [ ] were disclosed to the media" by plaintiffs' lawyers in *LTL1*. See Debtor Cross-Mot., ¶ 20. The Debtor is lying. Again. See *LTL1*, Dkts. 1385 (Debtor Letter) & 1388 (TCC1 Letter). After much hullabaloo in February 2022, it turned out that no confidential documents were shared with the media in violation of this Court's orders, but rather than admit its mistake, the Debtor instead expressed concern about "non-public" documents being shared with the press. "Non-public" is J&J-speak for "bad for us."

A common theme from J&J in *LTL2* are PR missives like the below:

This motion is yet another desperate attempt by a small group of plaintiff's law firms—whose financial interests conflict with, diverge from and contravene those of their clients—to deprive all claimants of the right to vote and decide for themselves whether to accept the proposed plan, which a growing and significant majority of claimants already support. See J&J Statement, May 12th.

Plaintiff lawyers are promulgating their unfounded theories for their own financial interest and are doing a disservice to their clients by leading them to believe that their cancer was caused by our cosmetic talc. *See* J&J Statement, May 7th.

The Bankruptcy Court correctly recognized [on Valadez lift stay motion] that no other claimant has moved to have the stay lifted to pursue claims in the tort system, but rather have elected to avail themselves of the bankruptcy process. We look forward to finalization and vote by all claimants on the reorganization plan. *See* J&J Statement, May 3rd.

Opposition to the plan is driven by firms who have a profit motive to remain in the tort system that is at odds with the interests of their clients. When presented with a clear and complete explanation and the opportunity to make an informed choice, we firmly believe the claimants will approve the plan. *See* J&J Statement, April 24th.

Unlike J&J, MRHFM believes in the First Amendment, so the Company can say whatever it wants. But Johnson & Johnson can't boast about its bogus plan to the public *and* then keep the plan confidential.<sup>3</sup> The statements above reveal, yet again, J&J's sword and shield approach to confidentiality. Justice requires Exhibit A to be published for all to see.

Respectfully submitted:

**MAUNE RAICHLE HARTLEY  
FRENCH & MUDD, LLC**

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<sup>3</sup> While MRHFM's plaintiffs have argued many things in these two bad faith bankruptcies, no one watching these proceedings—as Mr. Erik Haas has in person, in the courtroom—could honestly describe them as “availing” themselves of “the bankruptcy process.”



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# **EXHIBIT 1**

### Appendix of Johnson & Johnson Statements

No.	Date	Statement
13	May 12, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>This motion is yet another desperate attempt by a small group of plaintiff’s law firms—whose financial interests conflict with, diverge from and contravene those of their clients—to deprive all claimants of the right to vote and decide for themselves whether to accept the proposed plan, which a growing and significant majority of claimants already support. The court rulings this week cleared the way for the filing of the plan in the near term, and we will vigorously oppose the effort to derail that filing with this baseless and premature motion.<sup>i</sup></p>
12	May 9, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The Third Circuit properly denied a request by a small number of law firms, which represent the minority of claimants, attempting to prevent all claimants from having the opportunity to vote on the proposed resolution plan. As the Third Circuit stated, the Bankruptcy Court has established an “expedited” process to resolve this matter. We look forward to filing our plan shortly and to allowing claimants the opportunity to vote.<sup>ii</sup></p>
11	May 7, 2023	<p>We empathize with anyone suffering from cancer and understand that people are searching for answers. We believe science provides those answers, with evidence from clinical research and over 40 years of studies by independent medical experts around the world supporting our position that our cosmetic talc is safe, does not contain asbestos and does not cause cancer. Plaintiff lawyers are promulgating their unfounded theories for their own financial interest and are doing a disservice to their clients by leading them to believe that their cancer was caused by our cosmetic talc.</p> <p>While the talc-related claims against the Company have no merit, we recognize that resolving these cases in the tort system would take decades, with most claimants never receiving any compensation. Resolving this matter through the proposed reorganization plan in Bankruptcy Court is both more equitable and more efficient and allows claimants to be compensated in a timely manner. It is also a legitimate and appropriate use of the bankruptcy process. Our resolution proposal has the support of the vast majority of claimants, and we look forward to letting all the claimants vote on the proposed plan.<sup>iii</sup></p>

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No.	Date	Statement
10	May 3, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The Company deeply sympathizes with anyone suffering from cancer and understands that they are looking for answers, however, the science doesn't support that the exceedingly rare form of mesothelioma at issue in Mr. Valadez's case is connected to talc exposure. We stand ready to try this matter, where we will present evidence that scientific research, clinical evidence and over 40 years of studies by independent medical experts around the world continue to support that our cosmetic talc is safe, does not contain asbestos and does not cause cancer. The Company has won the majority of talc cases brought against it since these lawsuits began despite the misinformation campaigns driven by plaintiff lawyers.</p> <p>The Bankruptcy Court correctly recognized that no other claimant has moved to have the stay lifted to pursue claims in the tort system, but rather have elected to avail themselves of the bankruptcy process. We look forward to finalization and vote by all claimants on the reorganization plan.<sup>iv</sup></p>
9	May 2, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The Trustee's motion repeats the positions of the small minority of law firms that oppose the plan, whose counsel testified that they entered into a common interest fee agreement with the agency. We consider more compelling the views of the vast majority of the claimants' law firms who support the proposed reorganization plan.</p> <p>We are engaging in a legitimate and appropriate use of the bankruptcy process, and look forward to letting all the claimants vote on the proposed plan, which presents an equitable, efficient and complete resolution.<sup>v</sup></p>
8	May 2, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The filing is a desperate and legally deficient attempt by a small number of law firms to try to prevent claimants from voting on the resolution plan - a plan the vast and growing majority of claimants support. The law firms behind this filing have financial interests that conflict with, diverge from</p>



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		and contravene those of their clients. We will be submitting a response to the appellate court. <sup>vi</sup>
7	April 27, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>As unequivocally and unambiguously stated, Johnson &amp; Johnson has agreed to retain all the talc-related liabilities—and indemnify Kenvue for any and all costs—arising from litigation in the United States and Canada. Any suggestion to the contrary is false and misleading.<sup>vii</sup></p>
6	April 24, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The motion is nothing more than a desperate attempt to prevent the tens of thousands of claimants from deciding for themselves and vote on a resolution plan.</p> <p>As demonstrated in the recent hearings, there is significant support for the plan, including from major plaintiffs’ law firms representing the vast majority of the claimants in this litigation, as well as lawyers who previously led the opposition to the first bankruptcy.</p> <p>Opposition to the plan is driven by firms who have a profit motive to remain in the tort system that is at odds with the interests of their clients. When presented with a clear and complete explanation and the opportunity to make an informed choice, we firmly believe the claimants will approve the plan.<sup>viii</sup></p>
5	April 20, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The decision is a win for claimants, who are now one step closer to being able to vote for themselves on whether to accept the proposed resolution. We are confident the vote will overwhelmingly support the proposal, as it presents the only equitable path forward. The proposal commits \$8.9 billion to claimants, whose claims otherwise would languish in the tort system for decades and, based upon the trial record to date, likely would not receive a single dollar. Major plaintiffs’ law firms representing the vast majority of the claimants in this litigation support the plan, including lawyers who previously led the opposition to the first bankruptcy filing.</p>

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		<p>Despite this support, we expect a few plaintiffs' law firms will continue to oppose and seek to delay this plan. The evidence presented to the court this week shows that these firms have a profit motive to remain in the tort system that is at odds with the interests of their clients. When presented with a clear and complete explanation and the opportunity to make an informed choice, we firmly believe the claimants will approve the plan.<sup>ix</sup></p>
4	April 18, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>The evidence presented today re-confirmed that plaintiffs' lawyers representing over 60,000 claimants already support the \$8.9 billion resolution plan, including lawyers who had previously opposed the first bankruptcy filing. We remain confident that thousands more will join once this plan is allowed to be put out for a vote. Additionally, counsel in support of the resolution plan representing over 15,000 of the claimants echoed the desire to present the court with a resolution plan by May 15, 2023.</p> <p>Opposition to our plan was presented today from a few plaintiffs' lawyers who have repeatedly stated they have no interest in a settlement under any circumstance and whose business model would be threatened by a complete resolution. That model is premised on large, aberrant verdicts where most claimants get nothing.</p> <p>The only equitable path forward is for claimants to be allowed to decide for themselves and to let them vote yes or no on the reorganization plan.<sup>x</sup></p>
3	April 11, 2023	<p>Statement from Erik Haas, Worldwide Vice President of Litigation, Johnson &amp; Johnson:</p> <p>Progress toward our reorganization plan continues with Bankruptcy Court Judge Michael Kaplan's denial today of plaintiff law firms' request to dismiss the case. We look forward to proceeding with the bankruptcy and moving toward a vote on a final reorganization plan.<sup>xi</sup></p>
2	April 4, 2023	<p>Johnson &amp; Johnson (NYSE:JNJ) (the Company) today announced that its subsidiary LTL Management LLC (LTL) has re-filed for voluntary Chapter 11 bankruptcy protection to obtain approval of a reorganization plan that will equitably and efficiently resolve all claims arising from cosmetic talc litigation against the Company and its affiliates in North America. To that end, the Company has agreed to contribute up to a present value of \$8.9</p>

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		billion, payable over 25 years, to resolve all the current and future talc claims, which is an increase of \$6.9 billion over the \$2 billion previously committed in connection with LTL's initial bankruptcy filing in October 2021. LTL also has secured commitments from over 60,000 current claimants to support a global resolution on these terms. <sup>xii</sup>
1	March 22, 2023	<p>Our review petition raised significant concerns with the Third Circuit's decision, both in how it applied the law to the facts of Judge Kaplan's ruling, as well as the impracticality of the Third Circuit's new legal standard. We will immediately move for a stay of this opinion so we can seek review directly from the U.S. Supreme Court.</p> <p>Today's ruling ignores the facts established during the Bankruptcy Court's trial regarding the appropriateness of LTL Management's (LTL) formation and filing, as well as the Company's intention to efficiently resolve the cosmetic talc litigation for the benefit of all parties, including current and future claimants.</p> <p>We continue to stand behind the safety of Johnson's Baby Powder, which is safe, does not contain asbestos and does not cause cancer.<sup>xiii</sup></p>

<sup>i</sup> <https://www.factsabouthaltc.com/document/statement-on-tcc-standing-motion-to-dismiss?id=00000188-1125-d1d3-adde-5925f0290000>

<sup>ii</sup> <https://www.factsabouthaltc.com/document/statement-on-tcc-mandamus-denial?id=00000188-0209-d1d3-adde-4a0900490000>

<sup>iii</sup> <https://www.factsabouthaltc.com/document/johnson-johnson-statement-on-cnn-segment?id=00000187-f925-d1d3-add7-f925a0b10000>

<sup>iv</sup> <https://www.factsabouthaltc.com/document/statement-on-the-valadez-case-stay-lifted?id=00000187-e2f3-d2f1-adcf-e7f339780000>

<sup>v</sup> <https://www.factsabouthaltc.com/document/statement-on-united-states-trustee-motion-to-dismiss?id=00000187-dd25-d1d3-add7-dd2596bf0000>

<sup>vi</sup> <https://www.factsabouthaltc.com/document/statement-on-tcc-mandamus-petition?id=00000187-dc60-d1d3-add7-dc6058eb0000>

<sup>vii</sup> <https://www.factsabouthaltc.com/document/statement-on-talc-related-liability-and-kenvue?id=00000187-c2d9-d2f1-adcf-e7f9c8170000>

<sup>viii</sup> <https://www.factsabouthaltc.com/document/statement-on-tcc-motion-to-dismiss?id=00000187-b47f-d1d3-add7-fc7f65a00000>

<sup>ix</sup> <https://www.factsabouthaltc.com/document/statement-on-bankruptcy-court-ruling?id=00000187-9f60-d1d3-add7-df602e5d0000>

<sup>x</sup> <https://www.factsabouthaltc.com/document/april-18-statement-on-bankruptcy-court-hearing-on-ltl?id=00000187-96d0-d1d3-add7-ded0a8830000>

<sup>xi</sup> <https://www.factsabouthaltc.com/document/statement-on-bankruptcy-court-ruling-allowing-ltls-voluntary-chapter-11-re-filing-to-proceed?id=00000187-71e0-d1d3-add7-79e0266c0000>

## Appendix of Johnson & Johnson Statements

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<sup>xii</sup> <https://www.factsabouttalc.com/document/johnson-johnson-subsiary-ltl-management-llc-ltl-re-files-for-voluntary-chapter-11-to-equitably-resolve-all-current-and-future-talc-claims?id=00000187-4dec-d1d3-add7-4decec340000>

<sup>xiii</sup> <https://www.factsabouttalc.com/document/johnson-johnson-statement-on-third-circuit-review-petition?id=00000187-09c4-deef-a1df-adf4a9de0000>